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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/672,821	09/29/2000	John C. Lynch	91436-284	2252
22463	7590	10/05/2005	EXAMINER	
SMART AND BIGGAR 438 UNIVERSITY AVENUE SUITE 1500 BOX 111 TORONTO, ON M5G2K8 CANADA			GEREZGIHER, YEMANE M	
			ART UNIT	PAPER NUMBER
			2144	
DATE MAILED: 10/05/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

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<b>Office Action Summary</b>	Application No. 09/672,821	Applicant(s) LYNCH ET AL.	
	Examiner Yemane M. Gerezgiher	Art Unit 2144	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 07/20/2005.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-23 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 September 2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

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**DETAILED ACTION**

1. The amendment mailed on 07/20/2005 has been entered. Claims 1-23 remain pending in this application.

**Claim Rejections - 35 USC § 103**

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claim 1, 6, 7-11, 12-15, 17-20 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chong et al (U.S. Patent Number 6,205,557) hereinafter referred to as Chong in view of Galloway (U.S. Patent Number 5,430,709).

As per claims 1, 12, 13, 15 and 22, Chong disclosed a communication network including an active and standby call servers, the standby server becoming active upon failure of the active call server (See ABSTRACT) where the active server receiving signal from an interface server hereinafter referred to as a "media gateway". The active call server *sending/receiving a request, to/from a media gateway, for information regarding said active media connection; and receiving said information.* ("The active call server may then

send a request back to the *media gateway* requesting more information regarding the call and receiving the information...). See Column 1, Lines 36-62, and Column 2, Line 25 through Column 3, Line 17 and Figure 5.

Chong substantially disclosed the invention as claimed. However, Chong failed to teach the information been an active connection information. However, as evidenced by the teachings of Galloway, monitoring ongoing/established active media connection and maintaining a call record of the active connections of calls between communication terminals, the information about the active media connection comprising plurality of detailed attributes specifying detailed call information of the caller and the callee associated with the ongoing or active media connection. See Abstract, Figs. 4-5 (Galloway further disclosed identification of device originating a active media connection, duration of the active media connection, coding of the active connection and quality of service associated with the active media connection as in claims 8-11, 17-20) Column 1 Line 58 through Column 2 Line 37 and Column 2 Line 60 through Column 3 Line 56.

Thus, it is respectfully submitted that it would have been obvious to one of ordinary skill in the art at the time the invention was made to take the teachings of Galloway related to monitoring and recording active media connections and have modified the teachings of Chong related to a communication system having therein an active and backup call servers monitoring call establishment call information at a call setup stage in order to

maintain a detailed record of active media connections related to the statistics of the active call information in both directions. See Column 1 Line 66 through Column 2 Line 1 and Column 9 Lines 15-42.

As per claims 6 and 7, Chong disclosed an active call server storing the received information about active media connection in a *memory*. See Column 3, Lines 26-33.

As per claim 14, Chong disclosed a telecommunication network including an active and standby call servers, the standby server becoming active upon failure of the active call server. Chong disclosed *receiving an indication of a failure of a primary call server, said primary call server, prior to said failure, supporting said active media connection; responsive to said receiving, sending a request, to a media gateway, for information regarding said active media connection; and receiving said information*. See ABSTRACT, Column 1, Lines 54-62, Column 4, Lines 28-36 and Column 5, Lines 6-32.

Chong substantially disclosed the invention as claimed. However, Chong failed to teach the information been an active connection information. However, as evidenced by the teachings of Galloway, monitoring ongoing/established active media connection and maintaining a call record of the active connections of calls between communication terminals, the information about the active media connection comprising plurality of detailed attributes specifying detailed call information of the caller and the callee associated with the ongoing or active media connection. See Abstract, Figs. 4-5 (Galloway further disclosed

identification of device originating a active media connection, duration of the active media connection, coding of the active connection and quality of service associated with the active media connection as in claims 8-11, 17-20) Column 1 Line 58 through Column 2 Line 37 and Column 2 Line 60 through Column 3 Line 56.

Thus, it is respectfully submitted that it would have been obvious to one of ordinary skill in the art at the time the invention was made to take the teachings of Galloway related to monitoring and recording active media connections and have modified the teachings of Chong related to a communication system having therein an active and backup call servers monitoring call establishment call information at a call setup stage in order to maintain a detailed record of active media connections related to the statistics of the active call information in both directions. See Column 1 Line 66 through Column 2 Line 1 and Column 9 Lines 15-42.

4. Claims 2-5, 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chong et al (U.S. Patent Number 6,205,557) in view of Galloway (U.S. Patent Number 5,430,709) further in view of what would have been obvious to one of ordinary skill in the art at the time the invention was made.

With respect to the claim rejection applied to claims 1 and 15 above, the combined teachings of Chong and Galloway disclosed the invention as claimed.

However, the already combined teachings of Chong and Galloway is silent about the specific protocol used from a possible communication protocols such as SNMP (Simple Network Management Protocol), MGCP, SIP (Session Initiation Protocol) which are used to acquire information between the active and or the backup call servers and interfacing servers (media gateways).

However, the protocols mentioned above were well known in the art at the time the invention was made. In fact SNMP (Simple Network Management Protocol) *is used to read and write (set) information on network devices, which is a standard for gathering statistical data about network traffic and the behavior of network components; SNMP uses management information bases (MIBs), which define what information is available from any manageable network device.* MGCP (Media Gateway Control Protocol) *is a protocol for IP telephony that enables a caller with a PSTN phone number to locate the destination device and establish a session also known as IETF RFC 2705* and further SIP (Session initiation protocol) *is an Internet standard specified by the Internet Engineering Task Force (IETF) in RFC 2543. SIP is used to initiate, manage, and terminate interactive sessions between one or more users on the Internet. SIP, which borrows heavily from HTTP and the e-mail protocol SMTP, provides scalability, extensibility, flexibility, and capabilities for creation of new services. SIP is increasingly used for Internet telephony signaling, in gateways, PC phones, softswitches, and softphones.* For example See (U.S. Patent Number 6,584,186)

issued to Aravamudan et al disclosed the use of the claimed protocols (See Column 1, Line 55 through Column 2, Line 5 and Column 13, Lines 50-57).

The use of the protocols disclosed above was commonly known and used in the art of VOIP, which is an arbitrary choice of an ordinary skill in the art when developing or establishing a communication session in a voice communication network. Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to take those commonly and widely implemented protocols related to obtaining or transmitting information between network devices and have modified the already combined teachings of Chong and Galloway in order to facilitate the transmission of information between devices in a telephony network.

5. Claims 21 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Arango et al (U.S. Patent Number 6,724,747) hereinafter referred to as Arango in view of the already combined teachings of Chong and Galloway as applied to claims 1, 12-15, and 22 above.

Arango disclosed a method and system for media connectivity over a *packet-based network, a telephone station apparatus a media gateway communicatively connected to a telephone station apparatus and a data network and connected to media gateway controller or connection manager* for establishing a connection between first media gateway and a second media gateway. See Figures 1-5, Column 1, Lines 45-60 and Column 2, Lines 5-24.

Since a media gateway is a computer device or a computer program run on a computer device that translates between two dissimilar protocols, a media gateway comprising a receiver to receive data from first network and to process the received data using a processor connected to the receiver and to transmit the processed data to a second network through a transmitter connected to a processor is inherently disclosed by Argon's described media gateway. Arango substantially disclosed the invention as claimed. However, Arango was silent about *sending from the media gateway to the backup call server information regarding an active media connection terminated at said primary server; and receive said information at the backup call server.*

However, the combined teachings of Chong and Galloway disclosed an active call server (*a primary call server communicatively connected, over data network*) and a standby/backup call server connected requesting and receiving information from an interface server/gateway, where the interface gateway receives indication of a failure with the active/primary call server and transmitting active media connection information *terminated at said primary server* to the backup call server. See Chong Column 1, Lines 36-62, and Column 2, Line 25 through Column 3, Line 17 and Figure 5 and Galloway Abstract, Figs. 4-5, Column 1 Line 58 through Column 2 Line 37 and Column 2 Line 60 through Column 3 Line 56.

Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to take the teachings of already combined

teachings of Chong and Galloway related to transmitting active media connection information data from a media gateway to a warm-standby call server during the failure of a primary/active call server so that “the telecommunications network can insure, in the event of a failure of the active call server, that calls that have been initiated, but not established, will be established.” (See Chong Column 1, Lines 59-62) and further in order to maintain a detailed record of active media connections related to the statistics of the active call information in both directions. See Galloway Column 1 Line 66 through Column 2 Line 1 and Column 9 Lines 15-42.

### **Response to Arguments**

6. Applicant's arguments filed 07/20/2005 have been fully considered but they are not persuasive.

The inventive entity argues that the “combined teachings of Chong and Galloway would result in an active call server that could monitor an active media connection. Thus, an active call server would have no need to request, from a media gateway or interface call server, information regarding an active media connection, as all the information regarding the active media connection would be available (Applicant’s Remark/Argument, Page 2, ¶4)”.

The examiner respectfully disagrees with that contention. With respect to the above analysis of the combined teachings provided by the inventive entity,

it is correctly acknowledged by the applicant that the combined teachings do result in an active call server that could monitor an active media connection.

However, Examiner notes that the combined teachings do not indicate preclusion of the requesting step as alleged by the inventive entity. The already combined teachings disclosed an active and a warm standby call servers receiving information regarding an active media connection and performed a monitoring function; and further transmitted completed inactive (non active media connection information) information to a "completed call archive". It is obviously clear that the receiving information of active media connection information must have involved some type of initial request in order to receive and monitor an active media connection. [(See Chong, Abstract, Fig. 5, Column 1, Lines 36-62, and Column 2, Line 25 through Column 3, Line 17) and (See Galloway, Abstract, Figs. 4-5, Column 1 Line 58 through Column 2 Line 37 and Column 2 Line 60 through Column 3 Line 56)]. Thus, the combined teachings of Chong and Galloway meet the claimed limitation as recited by the inventive entity.

The inventive entity, further argue that the limitations of claims 2-5 including a network management protocol, SNMP, MGCP and SIP would not have been obvious over the combined teachings of Chong and Galloway further in view of what would have been obvious to one of ordinary skill in the art at the time the invention was made (see applicant's argument, page 4, ¶2-4).

The examiner once again respectfully disagrees with that allegation. These network-monitoring protocols are and have been known as standards in the network communication network (see the rejection applied to claims 2-5). In fact the inventive entity admitted the use of these protocols (see the specification on page 9). Furthermore, the inventive entity correctly admitted that the combined teachings of Chong and Galloway resulted in active call server monitoring information regarding an active media connection (see applicants remark, page 2, ¶4). Since the functionality of monitoring requires a network monitoring tool or protocol, it would have been obvious to one of ordinary skill in the art at the time the invention was made to make use of these commonly known protocol in order to facilitate monitoring according to the type of the information objects. See the rejection applied to the claims 2-5 above.

### **Conclusion**

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yemane M. Gerezgiher whose telephone number is (571) 272-3927. The examiner can normally be reached on 9:00 AM - 6:00 PM Mon - Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Wiley can be reached at (571) 272-3923. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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